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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/706,784

11/12/2003

Peter George Bennett

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07/06/2006

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EXAMINER

HOOK, JAMES F

ART UNIT

PAPER NUMBER

3754

DATE MAILED: 07/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/706,784

Applicant(s)

BENNETT ET AL.

Examiner

James F. Hook

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) 6-8, 18-23 and 31-43 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 9-17 and 24-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>6/30/04; 1/26/04</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of Group I and figure 9 in the reply filed on May 22, 2006 is acknowledged. The traversal is on the ground(s) that the method as claimed cannot be used to make metal cans and drums because it does not teach a flexible metal layer. This is not found persuasive because the thin metal sheets used to form most cans and drums is at least flexible enough to be shaped into the can or drum shape and therefore is a flexible metal layer. Therefore, the argument is not persuasive. With respect to the claimed method not having lid language, such is not persuasive where art from the can and drum art could be used to reject a method claim such as the instant application regardless of whether an addition step were included to put an end or lid on the article. With respect to the matter of burden, such is burdensome to search for method steps which are not searchable in the article art, and is not a required search for an article claim, thereby creating a burden by requiring further search beyond the scope needed for article only claims.

The requirement is still deemed proper and is therefore made FINAL.

Claims 6-8, 18-23, and 31-43 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention and species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on May 22, 2006.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 9-17, and 24-30 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Berne (French 1,417,987).

Claims 1, 2, 4, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Schrock. The patent to Schrock discloses the recited flexible pipe comprising at least one layer 11, 12, and an insert 10 disposed in the layer the cross sectional area of the diameter of the insert varying around the circumference of the insert, the external surface of the insert conforms to the inner surface of the layer in an abutting relationship for the entire length of the pipe, the inner diameter of the insert varies from at least two areas of minimum diameter to two areas of maximum diameter around the inner circumference of the insert, the insert would inherently limit the strain on the one layer when it collapses in that it is thicker, where there is at least one reinforcing layer 12 extending around the insert, where there can be two such layers provided which would provide an outer tubular layer over the innermost of the reinforcing layers, where such can be collapsed to a substantially flat configuration without totally blocking flow there through.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 5, 11-17, and 24-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schrock in view of Calvet. The patent to Schrock discloses all of the recited structure with the exception of forming the insert with two arcuate sections which are opposed to one another at maximum and minimum diameters which extend approximately 180 degrees. The patent to Calvet discloses that it is old and well known in the art of collapsible tube structures to form a collapsible layer of various different shapes to allow for collapse to a flat state without blocking flow including having a structure as shown in figures 3 and 4 which has an approximately 180 degree minimum diameter with a small section of maximum diameter diametrically opposed to allow the tube to collapse to a flat state without blocking flow. It would have been obvious to one skilled in the art to modify the insert in Schrock to be of any shape including having sections of minimum diameter that extend approximately 180 degrees and are diametrically opposed as suggested by Calvet where such teaches an equivalent way to form the collapsible inner layer which would allow collapse without blocking flow, where such is a simpler shape which would require less costs to manufacture thereby saving money.

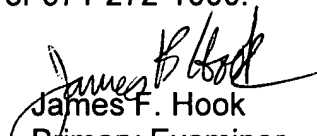
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Baird, Fromson, Waldhauser, Carpenter, Youngs, Lo, Kodama, Espinasse, and Tan disclosing state of the art tube structures.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (571) 272-4903. The examiner can normally be reached on Monday to Wednesday, work at home Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


James F. Hook
Primary Examiner
Art Unit 3754

JFH